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HOUSE BILL 276

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO TAXATION; PROVIDING FOR AND PERMITTING THE ELECTION OF ALTERNATIVE METHODS OF VALUATION OF PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRICAL POWER OR ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-36-29 NMSA 1978 (being Laws 1975, Chapter 165, Section 10) is amended to read:

"7-36-29. SPECIAL METHOD OF VALUATION--PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRICAL POWER OR ENERGY.--

A. All property used for the generation, transmission or distribution of electrical power or energy subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

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underscored material = new
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1 B. As used in this section:

2 (1) "depreciation" means straight line
3 depreciation over the useful life of the item of property;

4 (2) "economic obsolescence" means, with
5 respect to valuation for property taxation purposes, the loss
6 in value caused by unfavorable economic influences or factors
7 outside the property, which is in addition to a loss in value
8 attributable to physical depreciation;

9 [~~2~~] (3) "electric plant" means all property
10 situated in this state used or useful for the generation,
11 transmission or distribution of electric power or energy, but
12 does not include land, land rights, general buildings and
13 improvements, construction work in progress, materials and
14 supplies and licensed vehicles;

15 (4) "functional obsolescence" means, with
16 respect to valuation for property taxation purposes, the loss
17 in value caused by functional inadequacies or deficiencies
18 caused by factors within the property, which is in addition to
19 a loss attributable to physical depreciation;

20 [~~3~~] (5) "construction work in progress"
21 means the total of the balances of work orders for electric
22 plant in process of construction on the last day of the
23 preceding calendar year exclusive of land, land rights and
24 licensed vehicles;

25 [~~4~~] (6) "general buildings and improvements"

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1 means buildings of the nature of offices, residential housing,
2 warehouses, shops and associated improvements in general use by
3 the taxpayer and not directly associated with generation,
4 transmission or distribution of electrical power or energy;

5 [~~(5)~~] (7) "materials and supplies" means the
6 cost, including sales, use and excise taxes, and transportation
7 costs to point of delivery in this state, less purchases and
8 trade discounts, of all unapplied material and supplies on hand
9 in this state as of December 31 of the preceding calendar year;

10 [~~(6)~~] (8) "other justifiable factors"
11 includes, but is not limited to, functional and economic
12 obsolescence, such as the limitation upon the use of the
13 property based upon the available reserves committed to the
14 property; and

15 [~~(7)~~] (9) "tangible property cost" means the
16 actual cost of acquisition or construction of property
17 including additions, retirements, adjustments and transfers,
18 but without deduction of related accumulated provision for
19 depreciation, amortization or other purposes.

20 C. Each taxpayer having property subject to
21 valuation pursuant to this section shall elect to have that
22 property valued by the department in accordance with either
23 Subsection D or H of this section. The election shall be
24 effective for subsequent property tax years unless prior
25 permission of the secretary is obtained to change the election

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1 for good cause shown. A taxpayer shall not seek permission to
2 change an election unless the prior election has been effective
3 for at least three consecutive property tax years. The
4 secretary shall find that good cause exists to change the
5 election upon a showing satisfactory to the secretary by the
6 taxpayer that:

7 (1) the net result of all amendments to the
8 property tax statutes and regulations with effective dates
9 commencing within the property tax year has a substantial
10 adverse effect on the valuation for property tax purposes under
11 the alternative elected for the property for that year relative
12 to what the valuation for property tax purposes would have been
13 under the other alternative in the absence of the amendments;

14 (2) the net result of all changes in law or
15 circumstances, but excluding acquisition or sale of property
16 subject to valuation pursuant to this section, including
17 changes that do not affect property tax liability, occurring
18 within the property tax year has a substantial adverse effect
19 on the valuation for property tax purposes under the
20 alternative elected for the property for that year relative to
21 what the valuation for property tax purposes for the property
22 would have been under the other alternative in absence of the
23 changes; and

24 (3) changes in property tax statutes or
25 regulations that are effective prior to the property tax year

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1 have a substantial adverse effect on the valuation for property
2 tax purposes under the alternative elected for the property
3 relative to what the valuation for property tax purposes would
4 have been under the other alternative.

5 ~~[G.]~~ D. Electric plant shall be valued as follows:

6 (1) the department shall determine the
7 tangible property cost of electric plant;

8 (2) such tangible property cost shall then be
9 reduced by the related accumulated provision for depreciation
10 and any other justifiable factors; and

11 (3) notwithstanding the foregoing
12 determination of value for property taxation purposes, the
13 value for property taxation purposes of electric plant shall
14 not be less than twenty percent of the tangible property cost
15 of the electric plant.

16 ~~[D.]~~ E. The value of construction work in progress
17 shall be fifty percent of the amount expended and entered upon
18 the accounting records of the taxpayer as of December 31 of the
19 preceding calendar year as construction work in progress.

20 ~~[E.]~~ F. The value of materials and supplies shall
21 be the tangible property cost for such property as of December
22 31 of the preceding calendar year.

23 ~~[F.]~~ G. Each item of property having a taxable
24 situs in the state and valued under this section shall have its
25 net taxable value allocated to the governmental units in which

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1 the property is located.

2 H. Electric plant property valued under this
3 subsection shall be valued using one or more or a combination
4 of the following methods of valuation and applying the unit
5 rule of appraisal to the property:

6 (1) capitalization of earnings;

7 (2) market value of stock and debt; or

8 (3) cost less depreciation and obsolescence.

9 I. A claim for the deduction of economic
10 obsolescence or functional obsolescence pursuant to this
11 section shall contain a requested obsolescence factor along
12 with a brief statement of the facts upon which the claim is
13 made, together with documentation to support the claim.

14 J. If a taxpayer has not established a claim for
15 economic obsolescence or functional obsolescence in accordance
16 with regulations issued by the department, the department shall
17 advise the taxpayer in writing of the reasons for its
18 determination and the information that the department requires
19 for a claim for economic obsolescence or functional
20 obsolescence. The department shall provide that advisement in
21 sufficient time to permit the taxpayer to establish a claim for
22 economic obsolescence or functional obsolescence in accordance
23 with department regulations before the department issues a
24 valuation notice to the taxpayer.

25 [~~G.~~] K. The department shall adopt regulations

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1 ~~[under Section 72-31-88 NMSA 1953]~~ to implement the provisions
2 of this section."

3 Section 2. APPLICABILITY.--The provisions of this act
4 apply to the 2007 and subsequent property tax years.

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